

1987

Projects Unlimited v. Pitcher : Brief of Appellant

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca1



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Kenlon W. Reeve; attorney for appellant.

Ellen Maycock; attorneys for respondent.

Recommended Citation

Brief of Appellant, *Projects Unlimited v. Maurice R. Pitcher*, No. 870049 (Utah Court of Appeals, 1987).
https://digitalcommons.law.byu.edu/byu_ca1/333

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

UTAH COURT OF APPEALS

UTA KENLON W. REEVE, #2-18
Attorney for Defendant/Appellant
DOC United Savings Plaza
KF 4185 Harrison Boulevard
Suite 320
50 Ogden, Utah 84403
A10 Telephone: (801) 627-1870
DOCKET NO. 870049

IN THE COURT OF APPEALS OF THE STATE OF UTAH

PROJECTS UNLIMITED, INC., :
a Utah Corporation, :

Plaintiff/Respondent, :

vs. :

MAURICE R. PITCHER dba :
PITCHER PLUMBING, :

Defendant/Appellant. :

Case No. 870049-CA
Category No. 13 B

APPEAL FROM AN ORDER AND JUDGMENT TAKEN

IN THE CIRCUIT COURT, IN AND FOR THE COUNTY OF SALT LAKE,
SALT LAKE DEPARTMENT, STATE OF UTAH

BRIEF OF APPELLANT

KENLON W. REEVE
Attorney for Defendant/Appellant
4185 Harrison Blvd., #320
Ogden, Utah 84401

ELLEN MAYCOCK
Attorney for Plaintiff/Respondent
620 Kearns Building
136 South Main Street
Salt Lake City, Utah 84101

RECEIVED
MAY 1 1987

COURT OF APPEALS

KENLON W. REEVE, #2718
Attorney for Defendant/Appellant
United Savings Plaza
4185 Harrison Boulevard
Suite 320
Ogden, Utah 84403
Telephone: (801) 627-1870

IN THE COURT OF APPEALS OF THE STATE OF UTAH

PROJECTS UNLIMITED, INC., :
a Utah Corporation,

Plaintiff/Respondent, :

vs. :

MAURICE R. PITCHER dba :
PITCHER PLUMBING,

Defendant/Appellant. :

Case No. 870049-CA
Category No. 13 B

APPEAL FROM AN ORDER AND JUDGMENT TAKEN

IN THE CIRCUIT COURT, IN AND FOR THE COUNTY OF SALT LAKE,
SALT LAKE DEPARTMENT, STATE OF UTAH

BRIEF OF APPELLANT

KENLON W. REEVE
Attorney for Defendant/Appellant
4185 Harrison Blvd., #320
Ogden, Utah 84401

ELLEN MAYCOCK
Attorney for Plaintiff/Respondent
620 Kearns Building
136 South Main Street
Salt Lake City, Utah 84101

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUES ON APPEAL	1
STATEMENT OF THE CASE	1
STATEMENT OF FACTS	2
SUMMARY OF ARGUMENT	3
ARGUMENT	5
I. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT STRICTLY ON THE BASIS THAT APPELLANT HAD NOT FILED A COUNTER-AFFIDAVIT	5
II. THE TRIAL COURT ERRED IN AWARDING THE AMOUNT PRAYED FOR IN THE COMPLAINT	7
III. THE TRIAL COURT ERRED BY NOT COMPLYING WITH THE REQUIREMENTS OF RULE 56, UTAH RULES OF CIVIL PROCEDURE	8
CONCLUSION	10
MAILING CERTIFICATE	10
ADDENDUM A	
ADDENDUM B	
ADDENDUM C	
ADDENDUM D	

TABLE OF AUTHORITIES

<u>Franklin Financial v. New Empire Development Company,</u> 659 P.2d 1040 (Utah 1983)	9
<u>Mountain States Telephone and Telegraph Compnay v. Atkin,</u> <u>Wright & Miles, Chartered,</u> 681 P.2d 1258 (Utah 1984) . . .	6
<u>Olwell v. Clark,</u> 658 P.2d 585 (Utah 1982)	5,6
<u>Pentecost v. M.W. Harward,</u> 699 P.2d 696 (Utah 1985)	6
<u>Snyder v. Merkley,</u> 693 P.2d 64 (Utah 1984)	9

STATUTES

Utah Rules of Civil Procedure, Rule 56	6,8,9
--	-------

STATEMENT OF FACTS

1. On or about July 23, 1985, Appellant and Respondent entered into a Subcontract to perform labor and provide materials on the McKinley Elementary School Addition and Remodel project located in Box Elder School District. (R. at 24-34)

2. Appellant then proceeded to perform the labor and provide the materials as required under the Subcontract through April of 1986 (R. at 19, 21)

3. On or about April 18, 1986 Respondent transmitted to Appellant a final punch list for the McKinley Elementary Project from which a dispute arose as to the timeliness of Appellant's performance of the required work and the necessity of certain punch list items. (R. at 16-19, 21)

4. Thereafter, on or about August 26, 1986, Respondent employed Platt Brothers Plumbing and Heating, Inc., to perform work on the McKinley Elementary School on a "time and material plus expenses basis", for which the Platt Brothers billed Respondent. Respondent requested that Appellant compensate Respondent for the work performed by the Platt Brothers and Appellant refused to do so. (R. at 14-15, 22)

5. Respondent then filed a Complaint on October 31, 1986 and served Appellant the same on November 7, 1986. (R. at 1-2, 6)

6. Appellant personally prepared, signed and filed his Answer on November 17, 1986, specifically admitting and denying allegations in Respondent's Complaint and specifically setting forth affirmative defenses and legal and factual allegations

contradicting material facts contained in Respondent's Complaint and Affidavit. (R. at 5)

7. A Motion for Summary Judgment was filed by Respondent on December 4, 1986, with accompanying Affidavits from Phil Hofstetter, the vice-president of Respondent and Ellen Maycock, attorney for Respondent. (R. at 7-36)

8. A hearing was held on Respondent's Motion for Summary Judgment on December 30, 1986, at which time Respondent's counsel was present and Appellant was present in person. (R. at 39-40)

9. The trial court then signed an Order on January 5, 1987 stating "The court having reviewed the file and noted that plaintiff has filed an affidavit and defendant has not filed any counter affidavit, and being fully advised," and Judgment on January 8, 1987. (R. at 39-42)

SUMMARY OF ARGUMENT

Maurice R. Pitcher dba Pitcher Plumbing, the Appellant, first contends that the trial court erred in granting Summary Judgment for the Respondent based solely on the fact that Appellant had not filed a Counter-Affidavit to Respondent's Affidavit, in that under Rule 56, Utah Rules of Civil Procedure, it is not always required that the party opposing summary judgment proffer affidavits in order to avoid judgment. The purpose of an affidavit is to demonstrate that there is or is not a genuine issue of fact for trial. The moving party must not only show there is no genuine issue as to a material fact, but also that the moving party is entitled to judgment as a matter of law. The trial court made no finding that Respondent was

entitled to the Judgment as a matter of law, but only that Appellant had not filed a Counter-Affidavit.

The Appellant next asserts that Appellant's Answer, which Appellant personally prepared, signed and filed, denying the factual and legal basis for Respondent's recovery and specifically setting forth affirmative facts and legal defenses which were not refuted by Respondent's Motion or Affidavits, rises to the level of a verified pleading in that the Answer was based upon Appellant's personal knowledge and only lacked a notary verifying Appellant's signature.

The Appellant alleges that the trial court erred in awarding the amount prayed for in Respondent's Complaint even though there was no substantiating evidence contained in the Complaint or Affidavit documenting a billing for alleged work performed by the Platt Brothers, what work was performed or whether the work was required under the terms of the original Subcontract. Appellant's Answer specifically raised a question as to the dollar amount required to perform the work. There was no showing that under the Subcontract Appellant was responsible for any third-party work or that proper notice was given in accordance with the terms of the Subcontract.

Finally, Mr. Pitcher contends that the trial court did not comply with the requirements of Rule 56, Utah Rules of Civil Procedure, in that even if there was no genuine issue as to any material fact, Respondent did not show and the court did not rule that Respondent was entitled to judgment as a matter of law.

AGRUMENT

I. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT STRICTLY ON THE BASIS THAT APPELLANT HAD NOT FILED A COUNTER-AFFIDAVIT

The Respondent brought its Motion for Summary Judgment under Rule 56, Utah Rules of Civil Procedure, and proffered Affidavits from a vice-president of the Respondent and attorney for the Respondent, in an effort to show that there was no genuine issue as to any material fact and that Respondent was entitled to a judgment as a matter of law. The Utah Supreme Court noted in Olwell v. Clark, 658 P.2d 585 (Utah 1982), that in connection with Rule 56(c) and (e);

"The rule itself sets the criteria for judgment: a party may receive the judgment requested if (a) the pleadings and affidavits, if any, show no issue as to any material fact, and (b) the party is entitled to judgment as a matter of law. Rule 56(e) states specifically that a response in opposition to a motion must be supported by affidavits or other documents only in order to demonstrate that there is a genuine issue of fact for trial. Where the party opposed to the motion submits no documents in opposition, the moving party may be granted summary judgment only "if appropriate," that is, if he is entitled to a judgment as a matter of law."

In reviewing the Order (Addendum A) of the trial court, the finding that was made "the court having reviewed the file and noted that plaintiff has filed an affidavit and defendant has not filed any counter affidavit and being fully advised," was the sole basis for the granting of the Summary Judgment. (Addendum B) It is very apparent from the above quotation that the trial court did not address the questions as to whether there were any genuine issues of fact or whether Respondent was entitled to a judgment as a matter of law.

In Mountain States Telephone and Telegraph Company v. Atkin, Wright & Miles, Chartered, 681 P.2d 1258 (UT 1984), the court indicated that;

"Findings of fact are unnecessary to support the granting of summary judgment. Rule 52(a) Utah R.Civ.P. Nevertheless, the trial judge saw fit to make and enter findings and conclusions, the content of which evidence the existence of material issues of fact. Therefore, the grant of summary judgment is precluded."

In this case, the trial judge never went beyond the finding that no Counter-Affidavit had been filed as his sole basis for ruling in Respondent's favor. Both Olwell v. Clark, supra and Mountain States Telephone and Telegraph Co. v. Atkin, Wright & Miles, Chartered, supra, stand for the proposition that Rule 56 does not always require that the party opposing summary judgment proffer affidavits in order to avoid judgment against it.

As an important adjunct to this argument, Rule 56 (Addendum C) allows pleadings other than affidavits to be considered when making a determination as to questions of material fact and legal issues involved.

As the Utah Supreme Court noted in Pentecost v. M.W. Harward, 699 P.2d 696 (Utah 1985);

"A verified pleading, made under oath and meeting the requirements for affidavits established in Rule 56(e) of the Utah Rules of Civil Procedure, can be considered the equivalent of an affidavit for purposes of a motion for summary judgment."

Appellant personally prepared, signed and filed his Answer (Addendum D) denying the factual and legal basis for Respondent's recovery and set forth specific affirmative facts and legal

defenses, which were not refuted by Respondent's Motion or Affidavits. (R. at 7-36)

The only difference between Appellant's Answer and a verified pleading is the statement contained on a verified pleading that the facts set forth in the pleading were true and correct to the personal knowledge of the signer and his signature being notarized.

In this case, Appellant signed the Subcontract, worked on the project, corresponded and dealt directly with Respondent on a personal basis, and in all ways had personal knowledge of the facts as they relate to this matter. As further evidence of Appellant's reliance on the Answer as being true and correct, Appellant appeared at the Summary Judgment Hearing to corroborate his Answer with testimony and to present further evidence and argument substantiating his claims. (R. at 39)

Under the facts and circumstances of this case, the Appellant's Answer should rise to the level of a verified pleading and be considered in determining whether there are genuine issues of any material fact or questions of law.

II. THE TRIAL COURT ERRED IN AWARDING THE AMOUNT PRAYED FOR IN THE COMPLAINT

The trial judge erred in awarding the amount prayed for in the Complaint as there was no substantiating evidence contained in the Complaint, Motion or supporting Affidavits documenting a billing for alleged work performed by the Platt Brothers, what work was performed or whether the work was required under the terms of the Subcontract. Appellant's Answer (Addendum D)

specifically states that "Power engineering of Salt Lake Mr. Craig Hammond had a quote out to perform the very service for \$800.00." Thus raising a factual issue as to the accuracy, completeness and amount of the Platt Brother's bill which should be addressed and determined at trial.

In addition, the Appellant's Answer sets forth a legal and factual issue when stating "I must draw to your attention that according to the proper notice must be given, it was not." The forgoing thus raises a factual and legal question as to the method of notice and whether the notice, as required under the Subcontract, was properly given by Respondent to Appellant prior to the Platt Brothers being hired by the Respondent to perform additional work on the project.

III. THE TRIAL COURT ERRED BY NOT COMPLYING WITH THE REQUIREMENTS OF RULE 56, UTAH RULES OF CIVIL PROCEDURE

Rule 56(c) and (e), specifically set forth;

"The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law . . . "

"When a motion for summary judgment is made and supported as provided for in this rule, an adverse party may not rest upon the mere allegations or denials of this pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him."

In Snyder v. Merkley, 693 P.2d 64 (Utah 1984), after referring to the above Rule 56 paragraphs, the court stated the following about the granting of summary judgment;

"It should be granted only when it clearly appears that there is no reasonable probability that the party moved against could prevail."

The probability that Appellant could not prevail was never considered nor addressed by the trial judge in granting the Judgment and signing the Order. (Addendum B & A)

The court further went on in Franklin Financial v. New Empire Development Company, 659 P.2d 1040 (Utah 1983), by stating:

"Thus, when a party opposes a properly supported motion for summary judgment and fails to file any responsive affidavit or other evidentiary materials allowed by Rule 56(e), the trial court may properly conclude that there are no genuine issue of fact unless the face of the movant's affidavit affirmatively discloses the existence of such an issue. Without such a showing, the Court need only decide whether, on the basis of the applicable law, the moving party is entitled to judgment." emphasis added

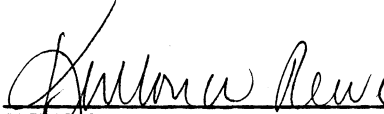
Even if the trial court decided that there were no genuine issues of material fact, the trial court still had the responsibility to decide that based on applicable law, the moving party was entitled to a judgment. Again, the trial judge never got beyond the question of Appellant not filing a Counter-Affidavit to determine if, as a matter of law, Respondent was entitled to the judgment granted.

The order of the trial judge made a specific finding, but the finding did not comply with the requirements of Rule 56, Utah Rules of Civil Procedure.

CONCLUSION

The trial judge erred in granting Respondent's Motion for Summary Judgment strictly on the basis that Appellant had not filed a Counter-Affidavit. The trial judge failed to make a determination as required by Rule 56, Utah Rules of Civil Procedure, as to whether there were any genuine issues of a material fact or whether Respondent was entitled to a judgment as a matter of law. Thus, the order of the trial judge should be remanded for either a trial on the merits or proceedings consistent with Rule 56.

RESPECTFULLY SUBMITTED this 1 day of May,
1987.



KENLON W. REEVE
Attorney for Defendant/Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT I mailed four (4) copies of the foregoing Appellant's Brief, postage prepaid, to: ELLEN MAYCOCK, Attorney for Plaintiff/Respondent, 620 Kearns Building, 136 South Main Street, Salt Lake City, Utah 84101, on this 1 day of

May, 1987.



SECRETARY

D:@BRIEF

ADDENDUM A

ELLEN MAYCOCK - 2131
KRUSE, LANDA & MAYCOCK
A Professional Corporation
Attorneys for Plaintiff
620 Kearns Building
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

IN THE CIRCUIT COURT FOR SALT LAKE COUNTY,
SALT LAKE DEPARTMENT, STATE OF UTAH

PROJECTS UNLIMITED, INC.,
a Utah corporation

Plaintiff,

vs.

MAURICE PITCHER d/b/a
PITCHER PLUMBING,

Defendant.

ORDER

Civil No. 86 76724 CV

Plaintiff's motion for summary judgment came on for hearing on December 30, 1986 at 2:00 p.m., pursuant to notice. Plaintiff was represented by its counsel, Ellen Maycock, and defendant was present in person. The court having reviewed the file and noted that plaintiff has filed an affidavit and defendant has not filed any counter affidavit, and being fully advised,

IT IS HEREBY ORDERED that plaintiff's motion for summary judgment is granted. Judgment should enter in favor of plaintiff in the amount of \$5,144.71 plus attorney's fees of \$380.00 and costs of \$41.00.

DATED this 5 day of Jan 1987.

BY THE COURT:

JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing ORDER to Maurice Pitcher, 1625 West 12th Street, Ogden, Utah 84404, postage prepaid, this 31st day of December, 1986.

Nick Stevens

ADDENDUM B

ELLEN MAYCOCK - 2131
KRUSE, LANDA & MAYCOCK
A Professional Corporation
Attorneys for Plaintiff
620 Kearns Building
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

IN THE CIRCUIT COURT FOR SALT LAKE COUNTY,
SALT LAKE DEPARTMENT, STATE OF UTAH

PROJECTS UNLIMITED, INC.,
a Utah corporation

Plaintiff,

vs.

MAURICE PITCHER d/b/a
PITCHER PLUMBING,

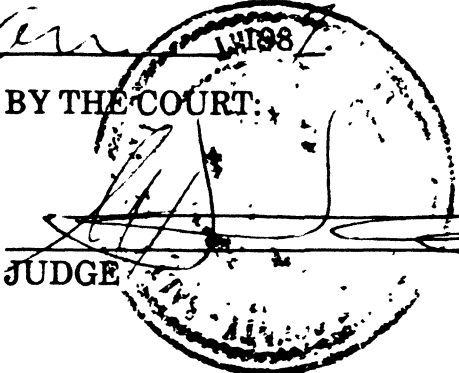
Defendant.

JUDGMENT

Civil No. 86 76724 CV

The court having entered an order granting plaintiff's motion for summary judgment, now upon the application of plaintiff, judgment is hereby entered against defendant in accordance with the court's order.

IT IS HEREBY ORDERED that plaintiff Projects Unlimited, Inc. is awarded judgment against defendant Maurice Pitcher in the amount of \$5,144.71, plus attorney's fees of \$380.00, and costs of \$41.00, with interest on the total judgment at the rate of 12% per annum as provided by law from the date of this judgment until paid, plus after accruing costs.

DATED this 8 day of Jan 1987
BY THE COURT:
JUDGE 

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing JUDGMENT to Maurice Pitcher, 1625 West 12th Street, Ogden, Utah 84404, postage prepaid, this 31st day of December, 1986.

Vicki Stevens

ADDENDUM C

Opening default or default judgment claimed to have been obtained because of attorney's mistake as to time or place of appearance, trial, or filing of necessary papers, 21 A.L.R.3d 1255.

Failure to give notice of application for default judgment where notice is required only by custom, 28 A.L.R.3d 1383.

Failure of party or his attorney to appear at pretrial conference, 55 A.L.R.3d 303

Default judgments against the United States under Rule 55(e) of the Federal Rules of Civil Procedure, 55 A.L.R. Fed 190

Key Numbers. — Judgment ⇐ 92 to 134.

Rule 56. Summary judgment.

(a) **For claimant.** A party seeking to recover upon a claim, counterclaim or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) **For defending party.** A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought, may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) **Motion and proceedings thereon.** The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) **Case not fully adjudicated on motion.** If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) **Form of affidavits; further testimony; defense required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) **When affidavits are unavailable.** Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) **Affidavits made in bad faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

Compiler's Notes. — This rule is similar to Rule 56, F.R.C.P.

Cross-References. — Contempt generally, §§ 78-7-18, 78-32-1 et seq

NOTES TO DECISIONS

ANALYSIS

Affidavit.
 —Contents.
 —Inconsistency with deposition.
 —Necessity of opposing affidavits.
 —Resting on pleadings.
 —Sufficiency.
 —Hearsay and opinion testimony.
 —Superseding pleadings.
 —Unpleaded defenses.
 —Verified pleading.
 —Waiver of right to contest.
 —When unavailable.
 —Who may make.
Affirmative defense.
Answers to interrogatories
Appeal.
 —Standard of review.
Evidence.
 —Facts considered.
 —Improper evidence.
 —Proof.
 —Weight of testimony.
Improper party plaintiff.
Issue of fact.
 —Corporate existence.
 —Deeds.
 —Lease as security.
Judicial attitude.
Motion to dismiss.
Notice.
 —Provision not jurisdictional.
 —Waiver of defect.
Procedural due process.
Summary judgment.
 —Availability.
 —Cross-motions.

ADDENDUM D

Maurice Pitcher
Pitcher Plumbing Co
1625 West 12 th St
Ogden, Utah 84404
801 731 4776

FILED
1986 NOV 17 PM 1:52
CLERK OF THE CIRCUIT COURT
SALT LAKE DEPARTMENT

IN THE CIRCUIT COURT FOR SALT LAKE COUNTY,
SALT LAKE DEPARTMENT, STATE OF UTAH

Maurice Pitcher
Pitcher Plumbing
Defendant

vs.

Projects Unlimited, Inc.
a UTAH corporation.
Plaintiff

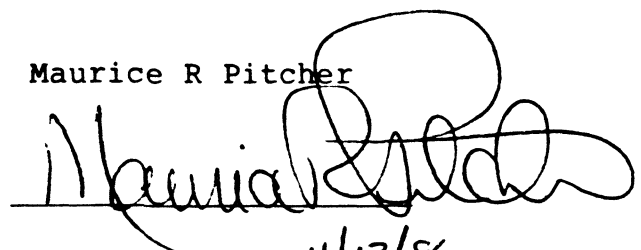
Response.

1. Yes
2. Yes
3. Yes
4. Yes
5. No
6. No.
7. No

1. I must draw to your attention that according to the proper notice must be given, it was not.

2. Power engineering of Salt Lake Mr Craig Hammond had a quote out to perform the very service for \$800.00.

Maurice R Pitcher



11/13/86